

IN THE COURT OF APPEALS OF TENNESSEE  
AT KNOXVILLE

Submitted on Briefs August 3, 2001

**STATE OF TENNESSEE, DEPARTMENT OF CHILDREN'S SERVICES, v.  
JACQUELINE DIANA RUCKER, IN RE: SDR, D.O.B. 10/1/97**

**Direct Appeal from the Juvenile Court for Roane County  
No. 10,117 Hon. Thomas Austin and Hon. Dennis Humphrey, Judges**

**FILED AUGUST 21, 2001**

**No. E2001-01163-COA-R3-JV**

---

At the behest of the State's Department of Children's Services, the Juvenile Court, after a trial, terminated the mother's parental rights to SDR. On appeal, we affirm.

**Tenn. R. App. P.3 Appeal as of Right; Judgment of the Juvenile Court Affirmed.**

HERSCHEL PICKENS FRANKS, J., delivered the opinion of the court, in which CHARLES D. SUSANO, JR., J., and D. MICHAEL SWINEY, J., joined.

Jennifer E. Raby, Rockwood, Tennessee, for Appellant, Jacqueline Diana Rucker.

Paul G. Summers, Attorney General and Reporter and Elizabeth C. Driver, Assistant Attorney General, Nashville, Tennessee, for Appellee, Tennessee Department of Children's Services.

**OPINION**

The mother's parental rights to SDR were terminated by the Trial Judge, pursuant to Tennessee Code Annotated §36-1-113. The mother has appealed.

SDR was born on October 1, 1997, and placed in the custody of the Department of Human Services on January 5, 1999. At that time, the mother was incarcerated and the child had been living with a relative who suffered mental illness, which resulted in the placement of the child in the custody of the Department. A case worker with the Department and the mother developed a permanency plan which was signed by the mother, but due to continuing and serious misbehavioral

problems by the mother, the Court, in a trial on the issue of termination, terminated the mother's parental rights.

The Trial Court, in its Opinion found:

That Respondent Jacqueline Rucker has abandoned this child in that Respondent has willfully failed to visit for four (4) consecutive months immediately preceding the filing of this petition; and that Respondent testified that she was in Florida working during this time and failed to call the Department to inquire about the child because she had outstanding warrants for her arrest.

That the mother has admitted that she has abused cocaine and other drugs, extending back for ten (10) years, and that she had in-patient treatment for this problem in December, 1999, at Helen Ross McNabb, and that these records for this treatment were made an exhibit; but that she has had three (3) relapses since that time, and that she has not followed the written recommendations for a relapse provided for her at her discharge at Helen Ross McNabb. She has no independent housing; and was convicted of resisting arrest in August, 2000, when the police attempted to put her in an ambulance due to intoxication; and that she failed to keep four appointments for her psychological examination; and has paid no support since it was ordered by this Court in April, 2000, and that this matter has been continued three times at her request; and that she has not asked the Department for a visit or advised them of her whereabouts since June, 2000;

That the child has been removed by order of this Court for a period of six (6) months; the conditions which led to her removal still persist; other conditions persist which in all probability would cause the child to be subjected to further abuse and neglect and which, therefore, prevent the child's return to the care of Respondent; there is little likelihood that these conditions will be remedied at an early date so that this child can be returned to her in the near future; the continuation of the legal parent and child relationship greatly diminishes the child's chances of early integration into a stable and permanent home;

That Respondent has failed to comply in a substantial manner with those reasonable responsibilities set out in the foster care plan related to remedying the conditions which necessitate foster care placement; and that she had signed this plan and a separate notice of the procedures to terminate her parental rights in the event that she did not comply with this plan, and it was approved by this Court.

...

That awarding legal and physical custody of the child to Respondent, would pose a risk of substantial harm to the physical or psychological welfare of the child;

That it is in the best interest of the child and the public that all of Respondent's parental rights to this child be terminated and the complete custody, control and guardianship of . . . [the child] be awarded to the State of Tennessee . . .

The issues raised by the mother are:

1. Whether the Department of Children's Services has established, by clear and convincing evidence, that grounds for termination of appellant's parental rights exist?
2. Whether the Department of Children's Services has established, by clear and convincing evidence, that termination of appellant's parental rights is in the best interests of the minor child?

Our review of the Trial Court's determination is *de novo* upon the record, with a presumption of correctness, unless the evidence preponderates otherwise. Tennessee Rules of Appellate Procedure, 13(d). *In Re: Adoption of Self*, 836 S.W.2d 581 (Tenn. Ct. App. 1992).

Unfortunately for the mother, there is clear and convincing evidence of several grounds for termination, as set forth in Tenn. Code. Ann. §36-1-113. The statute requires the grounds to be established by clear and convincing evidence, which clearly was established in this case. The mother, in her own testimony, concedes most of the factual bases for termination of her parental rights.

The record clearly establishes that the grounds set forth in Tenn. Code. Ann. §36-1-102(1)(A)(i) was established, as well as the grounds set forth in §36-1-113(g)(2), and (3)(a).

Additionally, in order to terminate the parent's parental rights, the Trial Court must find by clear and convincing evidence that termination of the parental rights is in the child's best interests. Tenn. Code Ann. §36-1-113(c). The factors to be considered by the Court, are set forth in Tenn. Code Ann. §36-1-113(i) and the Trial Court, upon considering these factors, determined that termination of the mother's parental rights was in the best interest of the child, and we hold there is clear and convincing evidence to support this finding.

We affirm the Judgment of the Trial Court and remand with the cost of the appeal assessed to the appellant.

---

HERSCHEL PICKENS FRANKS, J.